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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,257	09/20/2006	Janne Aaltonen	006559.00007	4526
22907 7590 09/05/2008 BANNER & WITCOFF, LTD. 1100 13th STREET, N.W. SUITE 1200 WASHINGTON, DC 20005-4051			EXAMINER MITCHELL, DANIEL D	
			ART UNIT 2619	PAPER NUMBER
			MAIL DATE 09/05/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/529,257	Applicant(s) AALTONEN, JANNE	
	Examiner DANIEL MITCHELL	Art Unit 2619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/25/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/25/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim(s) **40 and 41** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows. Claims **40 and 41** defines a **computer program**, embodying functional descriptive material. However, the claim does not define a computer-readable medium or memory and is thus non-statutory for that reason (i.e., “When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized” – Guidelines Annex IV). That is, the scope of the presently claimed a **computer program** can range from paper on which the program is written, to a program simply contemplated and memorized by a person.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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2. Claims 25-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manish et al. (U.S. Patent No. 7,075,904 B1), hereinafter referred as Manish in view of Maggenti (U.S. Patent No. 6,633,765 B1), hereinafter referred as Maggenti.

Regarding claim 25, Manish discloses multicast-enabled network element comprising: a first logical interface for receiving data from a first host **col. 4 lines 42-65** (teaches a first logical interface for receiving data from a first host); a second logical interface for transmitting said data to one or more further hosts **col. 22-29** (teaches a second interface for transmitting multicast data); a processor for defining a group comprising one or more further hosts, wherein a further host is added to the group in response to the reception of a request **col. 4 lines 42-65** (teaches that hosts may be added to a multicast group upon reception of a join message); wherein the processor is configured to limit the group to further hosts situated at the same location **col. 2 lines 35-38**.

However Manish does not expressly disclose cache, wherein said network element is configured to store received data in the cache until a predetermined condition is met and, in response to the meeting of this condition, to forward the data to said further hosts in said group.

Maggenti discloses in **col. 13 lines 23-29** a memory device within a base station that stores membership information which is interpreted as data.

Maggenti further discloses in **col. 13 lines 36-52** that upon the determination of the expiration of a countdown timer, which is the predetermined condition, a

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message including the received data will be transmitted to the wireless communication devices that belong to the multicast group.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Manish to include storing received data in the cache until a predetermined condition is met. One would be motivated as such in order limit the multicast transmission within a wireless network **col. 2 lines 4-8**.

Regarding claim 26, Manish discloses **col. 2 lines 31-43** (teaches a cellular communication system where multicast groups are identified cellular sectors) wherein one or both of a request and a file is transmitted between the network element and the first host via a cellular communications network and the location of the further host is defined in terms of a cell, so that the group is limited to further hosts situated in an area covered by a single cell.

Regarding claim 27, Manish discloses **fig 1**. configured to forward a file over a wireless communication network, being the last network element **element 26** located before an air-interface in a file delivery path between the first host **element 12, 14, 18** and one or more further hosts.

Regarding claim 28, Manish discloses **col. 3 lines 43-44** (teaches radio network multicast router/server - RNMS) wherein said network element comprises a router.

Regarding claim 29, Manish discloses a network element as to the parent claim. **However Manish does not expressly disclose further comprising a**

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timer, wherein the predetermined condition is one of the expiry of a time limit.

Maggenti discloses **col. 15 lines 32-42** after a countdown timer expires, data transmission begins.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Manish to include a timer for transmission of data. See similar motivation as claim 25.

Regarding claim 30, Manish discloses a network element as to the parent claim. **However Manish does not expressly disclose wherein the time limit changes dynamically.**

Maggenti discloses **col. 14 lines 59-67** where counter values are randomly assigned.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Manish to include a dynamic counter for the transmission of data. See similar motivation as claim 25.

Regarding claim 31, Manish discloses **fig. 1** configured to receive requests from the further hosts via a first communication path **PDSN Network** and to forward data to the further hosts via a second communication path **col. 5 lines 51-59 cellular network**, separate from the first communication path.

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Regarding claim 32, see similar rejection as claim 31.

As to claims 33-39 are for a method of claims 25-32. Therefore, the claims have been analyzed and rejected based on the apparatus claims of claims 25-32 respectively.

Regarding claims 40 and 41, Manish discloses a the method for executing the network element.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL MITCHELL whose telephone number is (571)270-5307. The examiner can normally be reached on Monday - Friday 8:00 am - 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shah G. Chirag can be reached on 571-272-3144. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. M./
Examiner, Art Unit 2619

/Chirag G Shah/
Supervisory Patent Examiner, Art Unit 2619